

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

TESTING TECHNOLOGIES, INC.,

Plaintiff,

VS.

MO MEDIA, LLC,

Defendant.

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Civil Action No. 07 Civ 7360

**DEFENDANT'S ORIGINAL
ANSWER**

COMES NOW Defendant, MO MEDIA, LLC., and files this Answer to Plaintiff's Original Complaint and in support thereof shows this court as follows:

I. ADMISSIONS AND DENIALS

1. Defendant denies paragraph 1.
2. Defendant denies paragraph 2.
3. Defendant is without knowledge or information sufficient to form a belief about the truth of paragraph 3.
4. Defendant admits that it is a Texas Limited Liability Company and that its principal place of business is in Texas. Defendant admits that it is in the business of selling test prep materials, but denies the remainder of Paragraph 4.
5. Defendant denies paragraph 5.
6. Defendant is without knowledge or information sufficient to form a belief about the truth of paragraph 6.
7. Defendant denies that venue is proper and denies paragraph 7.
8. Defendant is without knowledge or information sufficient to form a belief about the truth of paragraph 8.
9. Defendant denies paragraph 9.
10. Defendant denies paragraph 10.
11. Defendant denies paragraph 11.

12. Defendant denies paragraph 12.
13. Defendant denies paragraph 13.
14. Defendant denies paragraph 14.
15. Defendant denies paragraph 15.
16. Defendant denies paragraph 16.
17. Defendant denies paragraph 17.
18. Defendant denies paragraph 18.
19. Defendant denies paragraph 19.
20. Defendant denies paragraph 20.
21. Defendant denies paragraph 21.
22. Defendant denies paragraph 22.
23. Defendant denies paragraph 23.
24. Defendant denies paragraph 24.
25. Defendant denies paragraph 25.
26. Defendant denies paragraph 26.
27. Defendant denies paragraph 27.
28. Defendant denies paragraph 28.
29. Defendant denies paragraph 29.
30. Defendant denies paragraph 30.
31. Defendant denies paragraph 31.
32. Defendant denies paragraph 32.
33. Defendant denies paragraph 33.
34. Defendant denies paragraph 34.

- 35. Defendant denies paragraph 35.
- 36. Defendant denies paragraph 36.
- 37. Defendant denies paragraph 37.
- 38. Defendant denies paragraph 38.
- 39. Defendant denies paragraph 10.
- 40. Defendant denies that Plaintiff is entitled to the relief sought in paragraphs A 1-9.

II. AFFIRMATIVE DEFENSES

Even if Plaintiff proves the allegations in its Complaint, Defendant is not liable to Plaintiff for the following reasons:

- 1. Plaintiff lacks standing under the Lanham Act to bring this action.
- 2. The content of Defendant's web-site which is made the basis of this suit is non-actionable "puffery" and cannot form the basis of a Lanham Act claim.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant, respectfully requests that Plaintiff take nothing by reason of its Complaint and that judgment be rendered in favor of this Defendant; that this Defendant be awarded its costs of suit incurred in defense of this action; and that this Defendant have any and all other relief, in law or in equity, to which this Defendant may be justly entitled.

Respectfully submitted,

ROEBUCK & THOMAS, PLLC

By: 

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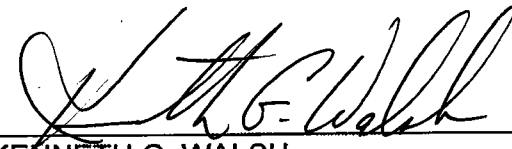
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant's Answer to Plaintiff's Original Complaint was served by facsimile and certified mail/return receipt requested to Mr. John S. Selinger, Zeccola & Selinger, LLC, 45 Webster Avenue, Goshen, New York 10924 on this the 11 day of September, 2007.


KENNETH G. WALSH